



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue SE  
Washington DC 20590

## PIPELINE SAFETY

### 2010 State Damage Prevention Grant

for

### PUBLIC UTILITIES COMMISSION OF OHIO

Please follow the directions listed below:

1. Review the entire document for completeness.
2. Review and have an authorized signatory sign page 2.
3. Fasten all pages with a paper or binder clip - no staples please as this package will be scanned upon it's arrival at PHMSA.
4. Mail the entire document, including this cover page to the following:

**ATTN: Karina Munoz  
U.S. Department of Transportation  
Pipeline & Hazardous Materials Safety Administration  
Office of Contracts and Procurement  
1200 New Jersey Avenue, SE Second Floor E22-228  
Washington, D.C. 20590**

#### **FedSTAR Information**

Submission Date: 8/31/2009 10:43:52 AM



**Pipeline and Hazardous Materials Safety Administration**  
**1200 New Jersey Avenue, SE**  
**Washington DC 20590**

## DEPARTMENT OF TRANSPORTATION

### APPLICATION

#### 2010 GRANT PROGRAM IN SUPPORT OF STATE DAMAGE PREVENTION

The PUBLIC UTILITIES COMMISSION OF OHIO hereby applies to the Department of Transportation for Federal funds appropriated for the support of State Damage Prevention Programs established under 49 U.S.C. Section 60134 et seq.

The State agency plans to carry out the State Damage Prevention Program, during calendar year 2010, as described in Attachment 1, "Project Abstract/Statement of Objectives". To accomplish the program, the state agency proposes to expend funds as set forth in Attachment 4, "State Damage Prevention Estimated Budget".

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Signature

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Title

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Date



## Project Abstract/Statement of Objectives

**Please provide a clear and concise description of the work this grant will fund for calendar year 2010**

The Public Utilities Commission of Ohio requests \$100,000.00 in grant funds to be used to strengthen its 2010 State Damage Prevention Program and address the nine elements noted in the PIPES Act of 2006. If made available, funding will be used by the PUCO in order to support the efforts of the 2010 Statewide Underground Damage Prevention Education Program as outlined in this applications.

It is the intent of Ohio's stakeholders to develop a cohesive underground damage prevention educational program. Currently, Ohio's excavators receive safety messages pertaining to underground damage prevention from a variety of sources. These sources include organizations that speak for a group of stakeholders such as the Ohio Gas Association, or an organization that provides an excavation notice service and public education programs such as the Ohio Utilities Protection Service. Additionally, individual facility owners/operators spend a great deal of time and money on educational messages as well.

It is our wish to create a task team of representatives from various stakeholders to:

1. Choose key target groups for this educational effort that will make the biggest impact on reducing damages to Ohio's underground infrastructure.
2. Determine, by way of surveying excavators, which safety messages to utilize - such as Know what's below - Call 811, when to call an owner/operator or 911, and/or encouraging the use of DIRT among Ohio's excavators and facility owners/operators, etc.
3. Employ a professional marketing firm to assist the task team in relaying the chosen messages to the chosen target groups.

Stakeholders expected to participate will include the Public Utilities Commission of Ohio, Ohio Utilities Protection Service, Ohio Oil and Gas Association, Ohio Gas Association, Ohio Contractors Association, Ohio Homeland Security, Ohio Department of Transportation, Ohio's municipal league or Township Association, and Ohio's underground facility owners/operators.

The team will then identify key targets throughout Ohio that they feel need to be educated in order to reduce damages to underground facilities. Potential targets include; excavators, i.e., excavation companies, landscapers, fence installation companies, home owners, and facility owners' employees; public officials and municipalities; emergency responders, i.e., police, fire fighters, and emergency personnel.



## State Damage Prevention Elements

### **ELEMENT 1 - EFFECTIVE COMMUNICATIONS**

"Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate."

**Does the proposed project address this element? (Required)** Yes

**Describe any existing state initiatives that support this element: (Required)**

Effective communications among Ohio's stakeholders begins at the state level with legislators, state agencies such as the PUCO, Ohio Utilities Protection Service (O.U.P.S.), industry groups, and the three Utility Coordinating Councils and six CGA Regional Partners present in the state. These individuals, public and private entities, and organizations work together to continually improve communications before, during, and after excavation activities. In addition, pending legislation requires enhance communications among stakeholders by requiring, for example, pre-marking with white paint and positive response.

The Ohio Utilities Protection Service's ability to continuously improve communications rests, in part, in its willingness to implement new technology. Many of the technology-based communication tools recently implemented by O.U.P.S. are noted under Element Number Eight. However, the development and implementation of methods for establishing and maintaining effective communications between stakeholders in Ohio are augmented in large part due to recent technological enhancements at the notification center. They include: Spring 2008 converted to Newtin-Gemini Call Center Software created by Norfield Data Products, Inc.

Ohio's excavators, designers, engineers, and developers may contact O.U.P.S. to register an excavation activity, request underground facility location information (for pre-plan/design activities), or an emergency excavation activity by dialing a toll-free 800 number or 811; 24 hours a day, seven days a week, 365 days a year. Excavators may also use the internet-based ticket entry system (i-dig) at anytime. The i-dig program allows excavators to access O.U.P.S.' mapping database so that they may pinpoint their excavation site. They may then print their ticket and map of the excavation site, and/or request a copy of the ticket and map via email, thus allowing them to forward both to whomever they choose.

Excavation notices initiated by phone are processed using new technology and well trained Customer Service Representatives. The importance of the Representatives' ability to accurately pin point an excavation location is discussed more thoroughly under Element Number Eight. During the call to the notification center excavators may request a "pre-meet" with facility owners or their contract locator. This request is noted on the (notification) ticket sent to facility owners. They may also request physical markings for a "preplan/design" notice. Once the excavation site is registered excavators receive a (notification) ticket number.

Until Ohio legislation requires positive response it remains voluntary. However, with the installation of Newtin-Gemini Software O.U.P.S. is able to facilitate positive response throughout Ohio.

Beyond State efforts, and the notification process, Ohio's three Utility Coordinating Councils and six CGA Regional Partners provide a forum for open communications among all stakeholders. Utility Coordinating Councils and CGA Regional Partners include:: Utility Coordinating Councils: Richland County Utility Coordinating Council Stark County Utility Coordinating Council Southeast Ohio Utility Coordinating Council CGA Regional Partners: The Utilities Council of Northern Ohio Greater Toledo Underground Damage Prevention Council Eastern Ohio Utility Coordinating Council Greater Columbus Underground Damage Prevention Council Southwest Ohio Underground Damage Prevention Council Miami Valley Underground Damage Prevention Council Contrary to what their names may imply, they do not serve stakeholders of one specific area. Utility Coordinating Councils and CGA Regional Partners conduct themselves according to CGA's maxim in which anyone involved in excavation is welcome and encouraged to attend any and all meetings.

Communication and education are key components of every meeting demonstrated by an open forum for discussion of excavation activities and routinely hosting educational presentations by industry leaders. These groups are funded by O.U.P.S. and their members and are discussed in more detail under Element Number Two and Element Number Four. Ohio's most recent initiative is the development of the Ohio Marking Standards Committee. This Committee will improve communications between stakeholders during a critical stage in the excavation process, namely the point in time when information about the underground facility is conveyed from the owner/operator to the excavator. This initiative is well underway and promises to reduce damages to underground facilities.

**Describe how the proposed project will enhance or continue implementation of this element: (Required only if proposal addresses this element)**

Ohio 2010 State Damage Prevention Public Education Program Project Manager: The Project Manager will recruit Public Awareness Program Task Team Members from throughout the industry, schedule and facilitate Task Team meetings, and serve as liaison between the Public Awareness Task Team and the Marketing firm. The Project Manager will serve as the subject matter expert by providing detailed industry specific direction to the marketing firm. Additionally, the Project Manager will promote the Damage Prevention Program throughout state.

**ELEMENT 2 - COMPREHENSIVE STAKEHOLDER SUPPORT**

"A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

The development of a statewide public awareness program by a cross-section of stakeholders will enhance, and undoubtedly strengthen, relationships among Ohio's stakeholders. The task team structure will provide a forum where previous public awareness programs can be reviewed and evaluated; suggested safety messages can be gauged by industry stakeholders with input from a professional marketing firm; methods used to relay the safety messages can be concentrated and result in a more efficient use of resources. The task team itself, with representation from so many stakeholder groups, will generate interest, and coupled with current legislative action will result in a heightened awareness of safety initiatives among those in the industry.

Legislation has been introduced in the Ohio Senate and is scheduled for consideration fall of 2009. Undoubtedly this could be the beginning of a long process; fortunately stakeholders are engaged and committed to change. Key to Ohio stakeholders' ability to garner support and partner in damage prevention efforts are the three Utility Coordinating Councils and six CGA Regional Partners identified under Element Number One. CGA Regional Partners meet on a monthly basis and Utility Coordinating Councils meet quarterly. While not every industry group is represented at every meeting, all stakeholders do actively participate in these groups and support their efforts. As previously mentioned, open communication among stakeholders is central to the success of these groups. Within each of the six CGA Regional Partners the CGA Regional Partner Representative provides CGA updates, CGA Best Practices are promoted, and most recently, each Regional Partner has designated a CGA Regional Partner DIRT Representative.



**ELEMENT 3 - OPERATOR INTERNAL PERFORMANCE MEASUREMENT**

"A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

The four largest gas distribution companies in Ohio (Dominion East Ohio, Columbia Gas of Ohio, Vectren Energy Delivery of Ohio, and Duke Energy of Ohio) all utilize contractors for line locating services in some or all of their distribution system. As a means of quality control the following items were identified from information provided by the companies:

? Two of the companies perform field audits of random locates to ensure that lines are marked correctly and per their company procedure. One company does this daily in all operating areas.

? All four companies meet regularly (at least monthly or weekly) with the locating contractor to resolve issues regarding locates, damages from bad locates, and training issues.

? Three companies accept the line locator internal training program, while one company requires training of the locators by an independent 3rd party.

? All four companies participate in the DIRT database collection of information. Ohio's two largest electric companies (American Electric Power and FirstEnergy Corporation) utilize contractors for line locating services in all of their service areas. As a means of quality control the following items were identified from information provided by the companies:

? Both companies monitor the locators' ability to mark the facilities within the timeframe allowed by law. One company uses electronic means; comparing the time the ticket is received from O.U.P.S and the time it is addressed by the locate company, the second company visits work sites at random and verifies that the facilities have been marked within the timeframe allowed by law.

? The accuracy of locates are checked at random by both companies at the excavation sites.



**ELEMENT 4 - EFFECTIVE EMPLOYEE TRAINING**

"Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

Training initiatives in Ohio vary in their development and structure. A more structured program involving multiple stakeholders includes, for example, Paradigm Liaison Services, Ohio's gas industry, O.U.P.S. staff, and excavators have developed an educational program to specifically address RP1162 requirements. Annual training is made available throughout the state and targets excavators, police, fire, and EMS personnel. Through the use of technology, and hand-held devices made available to participants during the training, results are measured and documentation is made available to program sponsors within the gas industry.

Many organizations address training needs individually and include: O.U.P.S.' Public Education and Outreach Team actively promote free presentations to anyone in Ohio involved in excavation. Ohio's excavation laws and notification process are presented to facility owners' employees, local and state employees, excavators, locators, engineers, developers, social and civic organizations, and school age children. Since 2001 thousands of stakeholders have been educated by the Public Education and Outreach Team.

Owners/Operators, State agencies, industry groups, and professional excavation companies and locating companies provide industry specific training. The three Utility Coordinating Councils and six CGA Regional Partners promote safety through education on a regular basis through presentations and demonstrations by industry experts. Educational resources include:

- ? CGA Best Practices Manuals, purchased and distributed by Ohio's CGA Regional Partners
- CGA Newsletter, printed and distributed throughout the industry.
- ? CGA Regional Partner quarterly newsletter produced by O.U.P.S. for industry-wide distribution
- Commercials targeting excavators, funded by O.U.P.S. and the Ohio Gas Association
- Radio announcements, purchased air time and public service announcements.
- ? Ads in trade publications
- Excavation industry newsletters.
- ? Trade shows targeting the excavation industry.
- ? Ohio Safety Days, sponsored by O.U.P.S.
- ? Promotional giveaways
- ? Industry-wide web sites
- ? Safety messages/signage used on vehicles and machinery
- ? Bureau of Workers' Compensation Excavation Safety Councils Training Sessions
- ? OSHA training provided directly by OSHA personnel and excavation industry groups.
- ? The Ohio Gas Association mails a "Professional Contractors Safety Bulletin" to thousands of Ohio's excavators annually. In Ohio Federal Regulations, 49 C.F.R. Part 192, Subpart N,



operator qualification program is monitored by the Public Utilities Commission of Ohio through regular audits including the review of covered tasks qualification records.

The development of a task team will allow the above noted activities to become a more collaborative effort. It will also assist these groups in making Ohio's excavators aware of any changes in Ohio's excavation laws should new legislation pass in 2010.



**ELEMENT 5 - PUBLIC EDUCATION**

"A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities."

**Does the proposed project address this element? (Required)** Yes

**Describe any existing state initiatives that support this element: (Required)**

Public education in Ohio is attributable to the efforts of State agencies including the PUCO, OSHA, and the DOT, Ohio Utilities Protection Service, Ohio Oil and Gas Association, facility owners/operators, industry organizations, and Ohio's Utility Coordinating Councils and CGA Regional Partners. Activities include:

- ? The use of commercials and billboards targeting homeowners
- ? Radio announcements, purchased air time and public service announcements
- ? Ads in magazines targeting homeowners
- ? Trade shows targeting homeowners
- ? Promotional giveaways
- ? Public Education, safety, and outreach programs are posted on stakeholders' web sites
- ? Bill-stuffers promoting "call before you dig" and 811 are used by facility owners
- ? Presentations and demonstrations promoting safety and safe excavation practices
- ? Safety messages/signage used on vehicles and machinery

The PUCO's Gas Pipeline Safety Section may, through case stipulations, require an owner/operator to enhance its damage prevention program and/or increase its public education activities.

**Describe how the proposed project will enhance or continue implementation of this element: (Required only if proposal addresses this element)**

It is the intent of Ohio's stakeholders to develop a cohesive underground damage prevention educational program. Currently, Ohio's excavators receive safety messages pertaining to underground damage prevention from a variety of sources. These sources include organizations that speak for a group of stakeholders such as the Ohio Gas Association, or an organization that provides an excavation notice service and public education programs such as the Ohio Utilities Protection Service. Additionally, individual facility owners/operators spend a great deal of time and money on educational messages as well.

It is our wish to create a task team of representatives from various stakeholders to:

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2. Determine, by way of surveying excavators, which safety messages to utilize - such as Know what's below - Call 811, when to call an owner/operator or 911, and/or encouraging the use of DIRT among Ohio's excavators and facility owners/operators, etc.
3. Employ a professional marketing firm to assist the task team in relaying the chosen

**ELEMENT 6 - DISPUTE RESOLUTION**

"A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

The PUCO's Gas Pipeline Safety Section may, through audits, complaints and incidence investigations, and case stipulations, require an owner/operator to enhance its damage prevention program and/or increase its public education activities. Pending legislation, if enacted, establishes a State "Underground Protection Commission" whose role will be to: Investigate and review complaints, hear disputes, and impose penalties. These changes will allow for penalties under the law for the first time in Ohio.



**ELEMENT 7 - ENFORCEMENT**

"Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

Currently Ohio's excavation laws do not address penalties or any other means of enforcement. The PUCO through its audits, education initiatives, and mentoring activities enforces federal requirements in a fair and consistent manner. Pending legislation, if enacted, establishes a State "Underground Protection Commission" whose role will be to: Investigate and review complaints, hear disputes, and impose penalties.



**ELEMENT 8 - TECHNOLOGY**

"A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

Ohio's facility owners and operators, excavators, and locators benefit from the long established relationship between State agencies and O.U.P.S. Joint initiatives in the advancement of mapping technology include:

? Location Based Response System (LBRS) is perhaps the single most important technology advancement within O.U.P.S.' mapping department, the Location Based Response System is a statewide initiative that involves the GPS'ing of all centerline files as well as address points placed at the start of every driveway. This data gives O.U.P.S. the ability to take more precise location points.

? Ohio Statewide Imagery Program (OSIP) is another state initiative that produced ortho-photos for the entire state. These photos are used to adjust centerline files and are incorporated into our new ticket taking software.

Additional uses of technology to enhance the location process include:

? The location process is also enhanced by enabling O.U.P.S.' Full Members to create their own user-defined buffers within the mapping system.

? Web Ticket Management Software (TMS) is available to O.U.P.S.' Members. While many large facility owners use their own ticket management system, Web TMS gives smaller companies and municipalities the ability to manage their tickets and address locates more quickly.

? Igrid is a web based system that gives Full Members the ability to make changes to their databases whenever needed; thus providing up-to-date facility location information.

? Ortho photos now incorporated into the mapping portion of the ticket taking screen increases the accuracy of tickets.

? The ability to create PDF map books for members and contractors. PDF maps are created by taking street centerlines and making them into downloadable "books". These books can be used to aid in pinpointing the excavation area before calling the notification center or entering them in the i-dig system.

? Conversion to Newtin-Gemini Software enables O.U.P.S. to facilitate positive response throughout Ohio. In order to promote continuity and enhance communication, the same codes used to identify facility owners by the new marking standards guidelines will be incorporated and used within the positive response system.

**ELEMENT 9 - DAMAGE PREVENTION PROGRAM REVIEW**

"A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews."

**Does the proposed project address this element? (Required)** No

**Describe any existing state initiatives that support this element: (Required)**

The four largest gas distribution companies in Ohio (Dominion East Ohio, Columbia Gas of Ohio, Vectren Energy Delivery of Ohio, and Duke Energy of Ohio), along with some smaller gas companies and professional excavators submit data into the DIRT Program on a regular basis. O.U.P.S. is in the process of making (virtual) DIRT available to stakeholders through their web site and promotes its availability and usage among facility owners and excavators. Once more data is collected, O.U.P.S. will be able to provide Ohio stakeholders and the CGA with its findings on a regular basis. Ohio's stakeholders recognize the need to promote DIRT more effectively thereby increasing stakeholder participation and their ability to analyze damages. Each of the six CGA Regional Partners have designated a DIRT Representative.



### **Legislative/Regulatory Actions**

**Provide a description of any legislature or regulatory actions (including legislative/regulatory studies) taken by the State within the past five (5) years pertaining to damage prevention program improvement, even if those actions were not completely successful.**

Currently Ohio's excavation laws do not address penalties or any other means of enforcement. The PUCO through its audits, education initiatives, and mentoring activities enforces federal requirements in a fair and consistent manner. Pending legislation, if enacted, establishes a State "Underground Protection Commission" whose role will be to: Investigate and review complaints, hear disputes, and impose penalties. This pending legislation is identified as Senate Bill 152, introduced on July 2nd, 2009. A draft copy of the proposed legislation is attached.



**State Damage Prevention Application Attachments**

Strickland Ltr.pdf  
128\_SB\_152\_I\_Y.pdf





# As Introduced

128th General Assembly  
Regular Session  
2009-2010

S. B. No. 152

Senator Buehrer

Cosponsors: Senators Wagoner, Seitz, Sawyer

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## A B I L L

To amend sections 121.04, 153.64, 3781.25, 3781.26, 1  
3781.27, 3781.28, 3781.29, 3781.30, 3781.31, and 2  
3781.32 and to enact sections 3781.261, 3781.281, 3  
and 3781.33 to 3781.38 of the Revised Code to 4  
modify the call before you dig notification system 5  
and to create the Underground Protection 6  
Commission of Ohio and the State Underground 7  
Protection Advisory Committee. 8

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 121.04, 153.64, 3781.25, 3781.26, 9  
3781.27, 3781.28, 3781.29, 3781.30, 3781.31, and 3781.32 be 10  
amended and sections 3781.261, 3781.281, 3781.33, 3781.34, 11  
3781.35, 3781.36, 3781.37, and 3781.38 of the Revised Code be 12  
enacted to read as follows: 13

**Sec. 121.04.** Offices are created within the several 14  
departments as follows: 15

In the department of commerce: 16  
Commissioner of securities; 17  
Superintendent of real estate and professional 18  
licensing;

Superintendent of financial institutions;	19
State fire marshal;	20
Superintendent of labor and worker safety;	21
Superintendent of liquor control;	22
Superintendent of industrial compliance;	23
Superintendent of unclaimed funds;	24
<u>Underground protection commission of Ohio.</u>	25
In the department of administrative services:	26
State architect and engineer;	27
Equal employment opportunity coordinator.	28
In the department of agriculture:	29
Chiefs of divisions as follows:	30
Administration;	31
Animal industry;	32
Dairy;	33
Food safety;	34
Plant industry;	35
Markets;	36
Meat inspection;	37
Consumer analytical laboratory;	38
Amusement ride safety;	39
Enforcement;	40
Weights and measures.	41
In the department of natural resources:	42
Chiefs of divisions as follows:	43
Water;	44
Mineral resources management;	45
Forestry;	46
Natural areas and preserves;	47
Wildlife;	48
Geological survey;	49

Parks and recreation;	50
Watercraft;	51
Recycling and litter prevention;	52
Soil and water conservation;	53
Real estate and land management;	54
Engineering.	55

In the department of insurance:	56
Deputy superintendent of insurance;	57
Assistant superintendent of insurance, technical;	58
Assistant superintendent of insurance, administrative;	59
Assistant superintendent of insurance, research.	60

<b>Sec. 153.64. (A) As used in this section:</b>	61
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(1) "Public improvement" means any construction,	62
reconstruction, improvement, enlargement, alteration, or repair of	63
a building, highway, drainage system, water system, road, street,	64
alley, sewer, ditch, sewage disposal plant, water works, and all	65
other structures or works of any nature by a public authority.	66

(2) "Public authority" includes the state, or a county,	67
township, municipal corporation, school district, or other	68
political subdivision, or any public agency, authority, board,	69
commission, instrumentality, or special district of or in the	70
state or a county, township, municipal corporation, school	71
district, or other political subdivision.	72

(3) "Underground utility facilities" includes any item buried	73
or placed below ground or submerged under water for use in	74
connection with the storage or conveyance of water or sewage; or	75
electronic, telephonic, or telegraphic communications;	76
electricity; electric energy; petroleum products; manufactured,	77
mixed, or natural gas; synthetic or liquified natural gas; propane	78
gas; or other substances. "Underground utility facilities"	79
includes, but is not limited to, all operational underground	80

pipes, sewers, tubing, conduits, cables, valves, lines, wires, 81  
manholes, and attachments, whether owned by any public or private 82  
or profit or nonprofit person, firm, partnership, company, 83  
corporation, joint stock association, joint venture, or voluntary 84  
association, wherever organized or incorporated, except for a 85  
private septic system in a single- or ~~double~~ multi-family dwelling 86  
utilized only for that dwelling and not connected to any other 87  
system. 88

(4) "~~Underground utility protection~~ Protection service" means 89  
a notification center not an owner of an underground utility 90  
facility, ~~existing that complies with the following:~~ 91

(a) It exists for the purpose of receiving notice from public 92  
authorities and from other persons that plan to prepare plans and 93  
specifications for, or engage in, public improvements involving 94  
digging, blasting, excavating, or other underground construction 95  
activities ~~and distributing this;~~ 96

(b) It distributes the information described in division 97  
(A)(4)(a) of this section to its members and participants; 98

(c) It has registered by March 14, 1989 with the secretary of 99  
state and the public utilities commission under former division 100  
(F) of this section as it existed on that date. "Registered 101  
~~underground utility protection service" means an underground~~ 102  
~~utility protection service registered with the secretary of state~~ 103  
~~and the public utilities commission of Ohio pursuant to division~~ 104  
~~(F) of this section.~~ 105

~~(5) "Owner of underground utility facility" does not include~~ 106  
~~telephone companies classified as medium or small under rule~~ 107  
~~4901-7-01 of the Ohio Administrative Code, owners of pipelines~~ 108  
~~that conduct liquid petroleum products, or cable television~~ 109  
~~companies to the extent that it requires membership in an~~ 110  
~~underground utility protection service.~~ 111

~~(6)~~(5) "Construction area" means the area delineated on the 112  
plans and specifications for the public improvement within which 113  
the work provided for in the contract will be performed. 114

(B) In any public improvement which may involve underground 115  
utility facilities, the public authority, prior to preparing plans 116  
and specifications, shall contact ~~the registered underground~~ 117  
~~utility~~ each protection ~~services~~ service and ~~the~~ any owners of 118  
underground utility facilities that are not members of a 119  
registered ~~underground utility~~ protection service for the 120  
existence and location of all underground utility facilities 121  
within the construction area. The public authority shall include, 122  
in the plans and specifications for such improvement, the identity 123  
and location of the existing underground utility facilities 124  
located in the construction area as provided to the public 125  
authority by the owner of the underground utility facility and the 126  
name, address, and telephone number of each owner of any 127  
underground utility facilities in the construction area that does 128  
not subscribe to a ~~registered underground utility~~ protection 129  
service. Any anticipated temporary or permanent relocation of 130  
underground utility facilities deemed necessary by the public 131  
authority shall be negotiated or arranged by the public authority 132  
with the owners of the underground utility facilities prior to the 133  
start of construction. If a temporary or permanent relocation of 134  
utility facilities is necessary, the owner of the underground 135  
utility facility shall be given a reasonable time to move such 136  
utility facilities unless the contractor to whom the contract for 137  
a public improvement is awarded or its subcontractor agrees with 138  
the owner of the underground utility facility to coordinate 139  
relocation with construction operations. The public authority, 140  
within ten calendar days after award of a contract for a public 141  
improvement, shall notify in writing all owners of underground 142  
utility facilities known to be located in the construction area of 143  
the public improvement of the name and address of the contractor 144

to whom the contract for the public improvement was awarded. Where 145  
notice is given in writing by certified mail, the return receipt, 146  
signed by any person to whom the notice is delivered, shall be 147  
conclusive proof of notice. 148

~~(C) The contractor to whom a contract for a public 149  
improvement is awarded or its subcontractor, at least two working 150  
days, excluding Saturdays, Sundays, and legal holidays, prior to 151  
commencing construction operations in the construction area which 152  
may involve underground utility facilities, shall cause notice to 153  
be given to the registered underground utility protection services 154  
and the owners of underground utility facilities shown on the 155  
plans and specifications who are not members of a registered 156  
underground utility protection service, in writing, by telephone, 157  
or in person. Where notice is given in writing by certified mail, 158  
the return receipt, signed by any person to whom the notice is 159  
delivered, shall be conclusive proof of notice. The owner of the 160  
underground utility facility, within forty eight hours, excluding 161  
Saturdays, Sundays, and legal holidays, after notice is received, 162  
shall stake, mark, or otherwise designate the location of the 163  
underground utility facilities in the construction area in such a 164  
manner as to indicate their course together with the approximate 165  
depth at which they were installed. The marking or locating shall 166  
be coordinated to stay approximately two days ahead of the planned 167  
construction Sections 3781.28 to 3781.31 of the Revised Code shall 168  
govern public improvements to the extent they are applicable. 169~~

170

(D) If the public authority fails to comply with the 171  
requirements of division (B) of this section, the contractor to 172  
whom the work is awarded or its subcontractor complies with the 173  
requirements of division (C) of this section, and the contractor 174  
or its subcontractor encounters underground utility facilities in 175  
the construction area that would have been shown on the plans and 176

specifications for such improvement had ~~the registered underground~~ 177  
~~utility~~ a protection service or owner of the underground utility 178  
facility who is not a member of a ~~registered underground utility~~ 179  
protection service whose name, address, and telephone number is 180  
provided by the public authority been contacted, then the 181  
contractor, upon notification to the public authority, is entitled 182  
to an increase to the contract price for itself or its 183  
subcontractor for any additional work that must be undertaken or 184  
additional time that will be required and is entitled to an 185  
extension of the completion date of the contract for the period of 186  
time of any delays to the construction of the public improvement. 187

In the event of a dispute as to the application of this 188  
section, procedures may be commenced under the applicable terms of 189  
the construction contract, or if the contract contains no 190  
provision for final resolution of the dispute, pursuant to the 191  
procedures for arbitration in Chapter 2711. of the Revised Code. 192

This section does not affect rights between the contractors 193  
and the public authority for any increase in contract price or 194  
additional time to perform the contract when the public authority 195  
complies with division (B) of this section. 196

Any public authority who complies with the requirements of 197  
division (B) of this section and any contractor or its 198  
subcontractor who complies with the requirements of division (C) 199  
of this section shall not be responsible to the owner of the 200  
underground utility facility if underground utility lines are 201  
encountered not as marked in accordance with the provisions of 202  
division (C) of this section by the owner of the underground 203  
utility facility, unless the contractor or its subcontractor has 204  
actual notice of the underground utility facility. Except as noted 205  
in this division, this section does not affect rights between the 206  
contractor or its subcontractor and the owner of the underground 207  
utility facility for failure to mark or erroneously marking 208

utility lines. The public authority shall not make as a 209  
requirement of any contract for public improvement any change in 210  
responsibilities between the public authority and the owners of 211  
the underground utility facilities in connection with damage, 212  
injury, or loss to any property in connection with underground 213  
utility facilities. 214

The contractor or its subcontractor shall alert immediately 215  
the occupants of nearby premises as to any emergency that the 216  
contractor or subcontractor may create or discover at or near such 217  
premises. The contractor or its subcontractor shall report 218  
immediately to the owner or operator of the underground facility 219  
any break or leak on its lines or any dent, gouge, groove, or 220  
other damage to such lines or to their coating or cathodic 221  
protection, made or discovered in the course of their excavation. 222

(E) This section does not affect rights between the public 223  
authority and the owners of the underground utility facilities for 224  
responsibility for costs involving removal, relocation, or 225  
protection of existing underground utility facilities, or for 226  
costs for delays occasioned thereby. 227

~~(F) An underground utility protection service shall register 228  
with the secretary of state and the public utilities commission of 229  
Ohio, identifying its name, address, telephone number, membership, 230  
and other pertinent information. The secretary of state and 231  
commission shall establish procedures for accepting such 232  
registrations and providing information about registrants to 233  
public authorities on request. 234~~

**Sec. 3781.25.** As used in sections 3781.25 to ~~3781.32~~ 3781.38 235  
of the Revised Code: 236

(A) "Protection service" means a notification center, but not 237  
an owner of an individual utility, that exists for the purpose of 238  
receiving notice from persons that prepare plans and 239



specifications for or that engage in excavation work, that 240  
distributes this information to its members and participants, and 241  
that ~~is~~ has registered by March 14, 1989 with the secretary of 242  
state and the public utilities commission of Ohio under former 243  
division (F) of section 153.64 of the Revised Code as it existed 244  
on ~~March 14, 1989~~ that date. 245

(B) "Underground utility facility" ~~means~~ includes any item 246  
buried or placed below ~~the surface of the earth~~ ground or 247  
submerged under water for use in connection with the storage or 248  
conveyance of water or sewage; electronic, telephonic, or 249  
telegraphic communications; television signals; electricity; 250  
electric energy; crude oil; petroleum products; artificial or 251  
liquefied petroleum; manufactured, mixed, or natural gas; 252  
synthetic or liquefied natural gas; propane gas; coal; steam; hot 253  
water; or other substances; ~~except that it does not include.~~ 254  
"Underground utility facility" includes all operational 255  
underground pipes, sewers, tubing, conduits, cables, valves, 256  
lines, wires, worker access holes, and attachments, owned by any 257  
person, firm, or company. "Underground utility facility" does not 258  
include either of the following: 259

(1) A private septic ~~systems~~ system in a one-family or ~~two~~ 260  
multi-family dwelling utilized only for that dwelling and not 261  
connected to any other system; 262

(2) An oil or gas producing facility that is not regulated by 263  
the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 264  
U.S.C. 1671, if the facility is not located in an "urbanized 265  
area," as defined in section 1509.03 of the Revised Code. 266

(C) "Utility" means any owner or operator, or an agent of an 267  
owner or operator, of an underground utility facility, including 268  
any public authority ~~as defined in section 153.64 of the Revised~~ 269  
~~Code~~, that owns or operates an underground utility facility, 270  
~~except.~~ "Utility" does not include the owners of the following 271

types of real property with respect to any underground utility	272
facility located on that property:	273
(1) The owner of a single-family or two-, three-, or	274
four-unit residential dwelling;	275
(2) The owner of an apartment complex;	276
(3) The owner of a commercial or industrial building or	277
complex of buildings, including but not limited to, factories and	278
shopping centers;	279
(4) The owner of a farm.	280
(D) <del>"Approximate location"</del> <u>"Tolerance zone"</u> means the site of	281
the underground utility facility including the width of the	282
underground utility facility plus eighteen inches on <del>each side</del> <u>all</u>	283
<u>sides</u> of the facility.	284
(E) <del>"Days Working days"</del> excludes Saturdays, Sundays, and	285
legal holidays as defined in section 1.14 of the Revised Code <del>and</del>	286
<del>"hours" excludes hours on Saturdays, Sundays, and legal holidays.</del>	287
<u>A single working day begins at midnight and has a duration of</u>	288
<u>twenty-four hours.</u>	289
(F) "Designer" means an engineer, architect, landscape	290
architect, contractor, or other person who develops plans or	291
designs for real property improvement or any other activity that	292
will involve excavation.	293
(G) "Developer" means the person for whom the excavation is	294
made and who will own or be the lessee of any improvement that is	295
the object of the excavation.	296
(H) "Excavation" means the use of <u>hand</u> tools, powered	297
equipment, or explosives to move earth, rock, or other materials	298
in order to penetrate or bore or drill into the earth, or to	299
demolish any structure whether or not it is intended that the	300
demolition will disturb the earth. "Excavation" includes such	301

agricultural operations as the installation of drain tile, but 302  
excludes agricultural operations such as tilling that do not 303  
penetrate the earth to a depth of more than twelve inches. 304

~~"Excavation" excludes any activity by a governmental entity which 305~~  
~~does not penetrate the earth to a depth of more than twelve 306~~  
~~inches.~~ "Excavation" excludes any underground mining operations 307  
that do not involve disturbance to the earth's surface. 308

(I) "Excavation site" means the area within which excavation 309  
will be performed. 310

(J) "Excavator" means the ~~contractor or other person who is 311~~  
or persons responsible for making the actual excavation. 312

(K) "Interstate gas pipeline" means an interstate gas 313  
pipeline subject to the "Natural Gas Pipeline Safety Act of 1968," 314  
82 Stat. 720, 49 U.S.C. 1671, as amended. 315

(L) "Interstate hazardous liquids pipeline" means an 316  
interstate hazardous liquids pipeline subject to the "Hazardous 317  
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 318  
2002, as amended. 319

(M) "Special notification requirements" means requirements 320  
for notice to an owner of an interstate hazardous liquids pipeline 321  
or an interstate gas pipeline that must be made prior to 322  
commencing excavation and pursuant to the owner's public safety 323  
program adopted under federal law. 324

(N) "Commercial excavator" means any excavator, excluding a 325  
utility as defined in this section, that satisfies both of the 326  
following: 327

(1) For compensation, performs, directs, supervises, or is 328  
responsible for the excavation, construction, improvement, 329  
renovation, repair, or maintenance on a construction project and 330  
holds out or represents oneself as qualified or permitted to act 331  
as such; 332

<u>(2) Employs tradespersons who actually perform excavation</u>	333
<u>construction, improvement, renovation, repair, or maintenance on a</u>	334
<u>construction project.</u>	335
<u>(O) "Person" has the same meaning as in section 1.59 of the</u>	336
<u>Revised Code and also includes a public authority.</u>	337
<u>(P) "Positive response system" means an automated system</u>	338
<u>facilitated by a protection service allowing a utility to</u>	339
<u>communicate to an excavator the presence or absence of any</u>	340
<u>conflict between the existing underground utility facilities and</u>	341
<u>the proposed excavation site.</u>	342
<u>(Q) "Project" means any undertaking by a private party of an</u>	343
<u>improvement requiring excavation.</u>	344
<u>(R) "Public authority" has the same meaning as in section</u>	345
<u>153.64 of the Revised Code.</u>	346
<u>(S) "Improvement" means any construction, reconstruction,</u>	347
<u>improvement, enlargement, alteration, or repair of a building,</u>	348
<u>highway, drainage system, water system, road, street, alley,</u>	349
<u>sewer, ditch, sewage disposal plant, water works, and all other</u>	350
<u>structures or works of any nature.</u>	351
<u>(T) "Emergency" means an unexpected occurrence causing a</u>	352
<u>disruption or damage to an underground utility facility that</u>	353
<u>requires immediate repair or a situation that creates a clear and</u>	354
<u>imminent danger that demands immediate action to prevent or</u>	355
<u>mitigate loss of or damage to life, health, property, or essential</u>	356
<u>public services.</u>	357
<u>(U) "Nondestructive manner" means using low-impact, low-risk</u>	358
<u>technologies such as hand tools, or hydro or air vacuum excavation</u>	359
<u>equipment.</u>	360
<u>(V) "Habitual or willful non-complier" means a person,</u>	361
<u>utility, or commercial excavator that has consistently or</u>	362

continually failed to comply with or purposefully or knowingly 363  
disregarded the provisions set forth in sections 3781.25 to 364  
3781.32 of the Revised Code. 365

**Sec. 3781.26.** (A) Each utility that owns or operates 366  
underground utility facilities shall participate in and register 367  
the location of its underground utility facilities with a 368  
protection service that serves the area where the facilities are 369  
located. A utility may elect to participate in the service on a 370  
limited basis and if it does so, it shall register the location of 371  
its underground utility facilities ~~only~~ by identifying the 372  
municipal corporations, and outside the limits of a municipal 373  
corporation, the townships by county and, where applicable, the 374  
immediate geographic area in which it has facilities. The service 375  
shall establish reasonable fees for limited basis participants. 376  
Any utility that elects to participate on a limited basis shall 377  
fully participate in and register the location of its underground 378  
utility facilities with the appropriate protection service within 379  
four years after the effective date of this amendment. 380

(B) Protection services, utilities, commercial excavators, 381  
excavation equipment dealers, the public utilities commission of 382  
Ohio, the board of building standards, local law enforcement 383  
agencies, and fire departments should publicize the importance of 384  
ascertaining the location of underground utility facilities before 385  
excavating and the use of protection services to ascertain that 386  
information. 387

(C) A protection service shall maintain records of 388  
notifications received from developers, designers, and excavators, 389  
and of its notifications made to utilities, developers, designers, 390  
and excavators, under sections 3781.27 and 3781.28 of the Revised 391  
Code. The records of a protection service shall identify by 392  
reference number, the notifications it received regarding a 393

proposed excavation site, the notifications it provided regarding 394  
a proposed excavation site, and the date and time of each 395  
notification. 396

(D) Each utility fully participating in a protection service 397  
pursuant to this section shall also participate in its affiliated 398  
positive response system. Each utility participating in a 399  
protection service on a limited basis shall directly communicate 400  
to the excavator the presence or absence of any conflict between 401  
the existing underground utility facilities and the proposed 402  
excavation site. 403

Sec. 3781.261. Not later than four years after the effective 404  
date of this section, every commercial excavator shall be a member 405  
of a protection service, and that protection service shall impose 406  
a reasonable membership fee. 407

Sec. 3781.27. Sections 3781.27 to 3781.32 do not apply to 408  
"public improvements" as defined in section 153.64 of the Revised 409  
Code. 410

(A) In order to ascertain the name of each utility with 411  
underground utility facilities located at the proposed excavation 412  
site and the types and ~~approximate location~~ tolerance zones of 413  
those facilities based on up-to-date records of the utility, any 414  
developer who is planning a project that will require excavation 415  
shall notify ~~the~~ each protection service of the location of the 416  
proposed excavation site. 417

(B) Except in the case of limited basis participants, ~~the~~ 418  
each protection service shall provide notice of the proposed 419  
excavation to each participant in the service that has underground 420  
utility facilities in the area of the proposed excavation site. In 421  
the case of limited basis participants, ~~the~~ each protection 422  
service shall notify the developer of the name of each limited 423

basis participant with underground utility facilities within the 424  
municipal corporation or township and county of the proposed 425  
excavation site, and the developer shall contact that utility. 426

427

(C) Each utility that has any underground utility facilities 428  
in the area of the proposed excavation site shall notify the 429  
developer of the ~~approximate locations~~ tolerance zones and 430  
description of the utility's underground utility facilities 431  
located at the proposed excavation site, or that the utility does 432  
not have any underground utility facilities at the site. The 433  
utility shall make this notification within ten working days of 434  
receiving a notice under division (B) of this section or by a 435  
later date acceptable to the developer and utility. In the case of 436  
an interstate hazardous liquid pipeline or an interstate gas 437  
pipeline, the utility also shall provide written notice to the 438  
developer of any special notification requirements. 439

(D) The utility shall determine if any relocation, support, 440  
or removal, or protective steps beyond those described in 441  
divisions (A)(1) to ~~(D)(4)~~ of section 3781.30 of the Revised Code 442  
are required in order to prevent disturbance or interference with 443  
the underground utility facilities during excavation. The utility 444  
shall determine whether it will permit the developer to make those 445  
adjustments, and, if the adjustments are to be made by the 446  
utility, a reasonable amount of time necessary to make those 447  
adjustments. 448

(E)(1) Based on the information provided pursuant to division 449  
(C) of this section, the developer shall indicate the ~~approximate~~ 450  
~~locations~~ tolerance zones of underground utility facilities either 451  
on or with the plans prepared for the project. The developer shall 452  
include with the plans the names, addresses, and telephone numbers 453  
of utilities with underground facilities at the excavation site, 454  
indicating which utilities are limited basis participants; the 455

name and telephone number of ~~the~~ any appropriate protection 456  
service; and any required adjustments as described in division (D) 457  
of this section, including the reasonable time necessary for the 458  
utility to make those adjustments. In the case of an interstate 459  
hazardous liquid pipeline or an interstate gas pipeline, the 460  
developer also shall include any special notification 461  
requirements. 462

(2)(a) Except as otherwise provided in division (E)(2)(b) of 463  
this section, the developer shall provide the plans to the 464  
commercial excavator before excavation begins prior to entering 465  
into a contract that involves such excavation. If the developer 466  
does not prepare written plans or have any written plans prepared, 467  
he the developer shall otherwise provide the ~~approximate locations~~ 468  
tolerance zones, identifying information on the utilities, 469  
information on required adjustments, and any special notification 470  
requirements to the commercial excavator before excavation begins. 471  
472

(b) When the developer is a utility, ~~he~~ the utility shall 473  
provide either the plans or the ~~approximate locations~~ tolerance 474  
zones, identifying information on the utilities, information on 475  
required adjustments, and any special notification requirements to 476  
the excavator before excavation begins. 477

(3) The developer shall design the project taking into 478  
account the ~~approximate location~~ tolerance zone of existing 479  
underground utility facilities in order to prevent, as far as is 480  
practicable, disturbance or interference with those facilities. 481

(4) When a project includes installation of new underground 482  
utility facilities, the developer shall attempt to design the 483  
installation so that at least a twelve-inch clearance is provided 484  
between the facilities. No facility shall be installed with less 485  
than a twelve-inch clearance unless the owners of existing 486  
facilities are notified, in writing, prior to installation. 487



(F)(1) This section does not apply in the case of a utility 488  
making emergency repair to its own underground utility facility. 489

(2) This section does not apply in the case of the owner of 490  
the types of real property identified in divisions (C)(1) to (4) 491  
of section 3781.25 of the Revised Code, unless the owner employs a 492  
designer to make written plans for work that will involve 493  
excavation. If the owner employs a designer, the designer shall 494  
contact the utility protection service and utilities that are 495  
limited basis participants in accordance with divisions (A) and 496  
(B) of this section, and shall include in or with the plans the 497  
information required under division (E) of this section. The owner 498  
shall provide that information to the excavator. 499

**Sec. 3781.28.** (A) Except as otherwise provided in divisions 500  
(C), (D), (E), and (F) of this section, at least ~~forty-eight hours~~ 501  
two working days, excluding the day the notice is given, but not 502  
more than ten working days before commencing excavation, the 503  
excavator shall notify ~~the~~ each protection service of the location 504  
of the excavation site and the date on which excavation is planned 505  
to commence. 506

(B) On receipt of notice under division (A) of this section, 507  
~~the~~ each protection service shall provide to each utility with 508  
underground utility facilities located at the excavation site, 509  
notice of the proposed excavation, except that in the case of a 510  
limited basis participant in the service, the service shall notify 511  
the excavator of the name of each limited basis participant with 512  
underground utility facilities located in the municipal 513  
corporation or township and county of the proposed excavation 514  
site, and the excavator shall notify the limited basis participant 515  
of the proposed excavation at least ~~forty-eight hours~~ two working 516  
days, excluding the day the notice is given, but not more than ten 517  
working days before commencing excavation. The excavator may make 518

this notification by telephone. 519

(C) In the case of an interstate hazardous liquids pipeline 520  
or interstate gas pipeline, the excavator shall comply with the 521  
special notice requirements of the public safety program of the 522  
owner of the pipeline as indicated in the plans or otherwise 523  
provided to the excavator in accordance with division (E) or 524  
(F)(2) of section 3781.27 of the Revised Code. 525

(D) If it has been determined pursuant to division (D) of 526  
section 3781.27 of the Revised Code that relocation, support, 527  
removal, or protective steps are necessary, the excavator shall 528  
provide earlier notice to the utility in order to provide the 529  
utility with reasonable time to coordinate making the adjustments 530  
with actual excavation. 531

(E) If an excavation will cover a large area and will 532  
progress from one area to the next over a period of time, the 533  
excavator shall provide written notice of excavation with 534  
projected timelines for segments of the excavation as the 535  
excavation progresses in order to coordinate the marking of 536  
~~approximate locations~~ tolerance zones with actual excavation 537  
schedules. Under such circumstances, the utility and excavator 538  
shall determine a mutually agreed upon marking schedule based on 539  
the project schedule. Once such a schedule is established, the 540  
marking and notification requirements set forth in division (A)(1) 541  
of section 3781.29 of the Revised Code shall not apply. 542

(F)(1) In the case of a utility that is making an emergency 543  
repair to its own underground utility system or a governmental 544  
entity making an underground emergency repair to traffic control 545  
devices, as defined in section 4511.01 of the Revised Code, used 546  
on any street or highway under the entity's jurisdiction, the 547  
utility or governmental entity shall notify ~~the~~ each protection 548  
service and each limited basis participant of the excavation site. 549  
This notice need not occur before commencing excavation. 550

(2) In the case of an excavation at the site of real property 551  
of the type described in divisions (C)(1) to (4) of section 552  
3781.25 of the Revised Code: 553

(a) If the owner of the property is the excavator, this 554  
section does not apply unless the excavation is planned for an 555  
area where a utility easement is located ~~or~~, a public 556  
right-of-way, or where utility facilities are known to serve the 557  
property. 558

(b) If the owner of the property employs an excavator, the 559  
excavator shall comply with the requirements of this section. If 560  
the owner did not employ a designer to make written plans, the 561  
excavator shall provide the notice required under this section to 562  
the each protection service and to each utility that is a limited 563  
basis participant in ~~the~~ a protection service that has underground 564  
utility facilities within the municipal corporation or township 565  
and county of the excavation site, as indicated by the protection 566  
service. 567

**Sec. 3781.281. Each protection service shall annually** 568  
allocate a portion of its revenue generated from membership fees 569  
and deposit it in the state underground protection fund in 570  
accordance with section 3781.38 of the Revised Code. The aggregate 571  
revenue annually deposited in the fund from all protection 572  
services pursuant to this section shall not exceed fifty thousand 573  
dollars. 574

**Sec. 3781.29. (A)(1) Except as otherwise provided in division** 575  
(A)(2) of this section, within ~~forty-eight hours~~ two working days, 576  
excluding the day of receiving notice under section 3781.28 of the 577  
Revised Code, each utility shall review the status of its 578  
facilities within the excavation site, locate and mark the 579  
~~approximate location~~ tolerance zone of its underground utility 580

facilities at the excavation site in such a manner as to indicate 581  
their course, and report the appropriate information to the 582  
protection service for its positive response system. If a utility 583  
does not mark its underground utility facilities or contact the 584  
excavator within ~~forty-eight hours of receiving notice under~~ 585  
~~section 3781.28 of the Revised Code~~ that time, the utility is 586  
deemed to have given notice that it does not have any facilities 587  
at the excavation site. If the utility cannot accurately mark the 588  
~~approximate location~~ tolerance zone, the utility shall mark the 589  
~~approximate location~~ tolerance zone to the best of its ability, 590  
notify the excavator using the positive response system that the 591  
markings may not be accurate, and provide additional guidance to 592  
the excavator in locating the facilities as needed during the 593  
excavation. If the utility cannot locate its underground utility 594  
facilities or cannot estimate them with reasonable accuracy and 595  
provide notice of their locations to the excavator, and any damage 596  
occurs to the underground utility facility through the excavation, 597  
the utility operating such an underground utility facility shall 598  
be responsible for repairing such damages and shall be liable for 599  
any injury of persons or property resulting from the damaged 600  
underground utility facility. 601

(2) In the case of an interstate hazardous liquids pipeline 603  
or an interstate gas pipeline, the owner of the pipeline shall 604  
locate and mark the ~~approximate location~~ tolerance zone of its 605  
pipeline within the time frame established in the public safety 606  
program of the owner. 607

(B) Unless a facility actually is uncovered or probed by the 608  
utility or excavator, any indications of the depth of the facility 609  
shall be treated as estimates only. 610

(C) A utility shall mark the ~~approximate location~~ tolerance 611  
zone of its underground facilities using the following color 612

codes:		613
Type of Underground		614
Utility Facility	Color	615
Electric power transmission and distribution	Safety red	616 617
Gas transmission and distribution	High visibility safety yellow	618
Oil transmission and distribution	High visibility safety yellow	619
Dangerous materials, product lines, and steam lines	High visibility safety yellow	620 621
Telephone and telegraph systems	Safety alert orange	622
Police and fire communications	Safety alert orange	623
Cable television	Safety alert orange	624
Water systems	Safety precaution blue	625
Slurry systems	Safety precaution blue	626
Sewer lines	Safety green.	627

(D) Except as otherwise provided in divisions (E) and (F) of 628  
this section, prior to notifying a protection service of the 629  
proposed excavation, an excavator shall define and pre-mark the 630  
immediate area and the perimeter of the proposed excavation site. 631  
Proposed construction or excavation markings shall be made in 632  
white through the use of an industry-recognized method such as 633  
chalk-based paint, flags, stakes, or other method applicable to 634  
the specific site and when possible shall indicate the excavator's 635  
identity by name, abbreviation, or initial. 636

(E)(1) Before beginning an emergency excavation, or as soon 637  
as possible thereafter, an excavator shall make every effort to 638  
notify each protection service of the excavation. In providing 639  
notification, the excavator shall provide, at a minimum: 640

(a) The name of the individual notifying the protection 641  
service; 642

(b) The name, address, any electronic mail address, and any 643  
telephone and facsimile numbers of the excavator; 644

(c) The specific location of the excavation site; 645

(d) A description of the excavation. 646

(2) Upon receiving the information set forth in division 647  
(E)(1) of this section, the protection service shall provide the 648  
excavator with a reference number and a list of utilities that the 649  
protection service intends to notify. The protection service shall 650  
immediately notify each utility that according to the registration 651  
information provided under section 3781.26 of the Revised Code has 652  
facilities located within the designated area of the emergency 653  
excavation. 654

(3) Any utility notified of an emergency excavation may 655  
inspect all of its underground utility facilities located at the 656  
emergency excavation site and may take any otherwise lawful action 657  
it considers necessary to prevent disturbance to or interference 658  
with its facilities during excavation. 659

(F) An excavator is not required to pre-mark a proposed 660  
excavation as provided in division (D) of this section in any of 661  
the following situations: 662

(1) The utility can determine the precise location, 663  
direction, size, and length of the proposed excavation site by 664  
referring to the notification provided by the protection service 665  
pursuant to sections 3781.27 and 3781.28 of the Revised Code. 666

(2) The excavator and the affected utility have had an 667  
on-site, pre-construction meeting for the purpose of pre-marking 668  
the excavation site. 669

(3) The excavation involves replacing a pole that is within 670  
five feet of the location of an existing pole. 671

(4) Pre-marking by the excavator would clearly interfere with 672  
pedestrian or vehicular traffic control. 673

**Sec. 3781.30. (A) When making excavations using traditional** 674

or trenchless technologies, the excavator shall do all of the 675  
following: 676

~~(A)~~(1) Maintain reasonable clearance between any underground 677  
facility and the cutting edge or point of powered equipment; 678

~~(B)~~(2) Protect and preserve the markings of ~~approximate~~ 679  
~~locations~~ tolerance zones of underground utility facilities until 680  
those markings are no longer required for proper and safe 681  
excavations; 682

~~(C)~~(3) When approaching and excavating within the tolerance 683  
zone of underground utility facilities ~~while excavating~~ with 684  
powered equipment, require an individual other than the equipment 685  
operator, to ~~look~~ visually monitor the excavation activity for any 686  
~~sign~~ indication of the underground utility facility; 687

~~(D)~~(4) Conduct the excavation ~~in~~ within the ~~vicinity of the~~ 688  
~~underground utility facility~~ tolerance zone in a careful and, 689  
prudent, and nondestructive manner, ~~excavating by hand, if when~~ 690  
necessary, to determine and expose the precise location of the 691  
facility and to prevent damage; 692

~~(E)~~(5) As soon as any damage is discovered, including gouges, 693  
dents, or breaks to coatings, cable sheathes, and cathodic 694  
protection anodes or wiring, report the type and location of the 695  
damage to the utility and permit the utility a reasonable amount 696  
of time to make necessary repairs; 697

~~(F)~~(6) Immediately report to the utility, the protection 698  
service, and, if necessary, to the appropriate law enforcement 699  
agencies and fire departments by calling 9-1-1, any damage to an 700  
underground utility facility that results in escaping flammable, 701  
corrosive, explosive, or toxic liquids or gas, and take reasonable 702  
appropriate actions needed to protect persons and property and to 703  
minimize safety hazards until those agencies and departments and 704  
the utility arrive at the scene. 705

(B) When utilizing trenchless excavation methods, the excavator must comply with the following requirements, in a manner consistent with division (A) of this section:

(1) Expose and confirm all underground utility facilities at each crossing point by the proposed excavation in a nondestructive manner;

(2) Expose all parallel underground utility facilities in a nondestructive manner at the beginning and end of each trenchless excavation. Any parallel underground utility facility that is within five feet of the proposed alignment shall also be exposed every one hundred feet. Any parallel underground utility facility that is within three feet of the proposed alignment shall be exposed every fifty feet.

(3) Ensure that the final product installation maintains the proper clearances of existing underground utility facilities as determined pursuant to division (E)(4) of section 3781.27 of the Revised Code.

**Sec. 3781.31.** (A) When a utility marks the ~~approximate location~~ tolerance zone of its underground utility facilities in accordance with division (A) of section 3781.29 of the Revised Code, the utility may request that the excavator provide prior notice to the utility of the actual commencement of the excavation. An excavator that receives a request for notice under this division shall provide the notice to the utility at least ~~twenty-four hours~~ one full working day prior to the commencement of excavation. The excavator may make this notice by telephone.

(B) If the markings of ~~approximate locations~~ tolerance zones made under section 3781.29 of the Revised Code are destroyed or removed before excavation is completed, the excavator shall notify the utility through the protection service that the markings have been destroyed or removed, and the utility shall remark the



~~approximate locations within forty-eight hours of the notice~~ 737  
~~tolerance zones in accordance with division (A) of section 3781.29~~ 738  
~~of the Revised Code.~~ 739

**Sec. 3781.32.** (A) Any connections or tie-ins to existing 740  
utility services within a public right-of-way shall comply with 741  
permit requirements of the public ~~agency~~ authority that has 742  
jurisdiction over that right-of-way. 743

(B) A developer shall not require, as a condition for 744  
entering into a contract for a project that will require 745  
excavation, that responsibility for performance of duties imposed 746  
under sections 3781.25 to 3781.32 of the Revised Code shall be 747  
assumed by a person other than the person on whom those duties are 748  
imposed under those sections. This division does not prohibit a 749  
utility from entering into any contract for the performance of 750  
duties that are imposed on a utility under those sections. 751

(C) Nothing in sections 3728.25 to 3728.32 of the Revised 752  
Code shall be construed to require a utility to relocate its 753  
underground utility facilities located at an excavation site. 754

**Sec. 3781.33.** (A)(1) There is hereby created the state 755  
underground protection advisory committee consisting of nine 756  
members as appointed pursuant to this section. Five members shall 757  
constitute a quorum. The governor shall make initial appointments 758  
within thirty days after the effective date of this section. Of 759  
the initial appointments, three shall be for terms ending on 760  
January 31, 2011, three shall be for terms ending on January 31, 761  
2012, and three shall be for terms ending on January 31, 2013. 762  
Thereafter, terms of office shall be for three years, with each 763  
term ending on the same day of the same month as did the term it 764  
succeeds. 765

(2) Each member shall hold office from the date of 766

appointment until the end of the term for which the member was 767  
appointed. Members may be reappointed, provided that no more than 768  
two terms can be served consecutively and a period equal to one 769  
term must elapse before a member is eligible to serve another 770  
term. 771

(3) Vacancies shall be filled in the manner provided for 772  
original appointments. Any member appointed to fill a vacancy 773  
occurring prior to the expiration date of the term for which the 774  
member's predecessor was appointed shall hold office for the 775  
remainder of the term. A member shall continue in office 776  
subsequent to the expiration date of the member's term until a 777  
successor takes office or until a period of sixty days has 778  
elapsed, whichever occurs first. 779

(B) The committee shall consist of nine members appointed by 780  
the governor in the following manner: 781

(1) The governor shall appoint one person to represent the 782  
interests of commercial excavators from a list of at least three 783  
provided to the governor by the Ohio contractors association or a 784  
successor organization representing the interest of commercial 785  
excavators in this state; 786

(2) The board of trustees of the Ohio utilities protection 787  
service shall provide the governor with a list consisting of at 788  
least nine representatives of utilities subject to regulation by 789  
the public utilities commission and companies not subject to 790  
regulation by the commission that are engaged in the 791  
transportation of natural gas by pipeline. At least three 792  
individuals on the list shall represent the interest of a gas 793  
company, natural gas company, or company not subject to regulation 794  
by the commission that is engaged in the transportation of natural 795  
gas by pipeline; at least three individuals on the list shall 796  
represent the interests of an electric light company; and at least 797  
three individuals on the list shall represent the interest of a 798

telephone or telegraph company. For purposes of this division, 799  
"gas company," "natural gas company," "electric light company," 800  
"telephone company," and "telegraph company" have the same meaning 801  
as in section 4905.03 of the Revised Code. The governor shall 802  
appoint from the list one person representing a gas company, 803  
natural gas company, or company not subject to regulation by the 804  
commission that is engaged in the transportation of natural gas by 805  
pipeline; one person representing an electric light company; and 806  
one person representing a telephone or telegraph company to serve 807  
on the committee. No member of the board of trustees of the Ohio 808  
utilities protection service shall be appointed to the committee. 809

810

(3) The governor shall appoint one individual representing 811  
the public utilities commission from a list of at least three such 812  
individuals provided by the chairperson of the public utilities 813  
commission. 814

(4) The governor shall appoint one individual representing 815  
the interests of utilities not subject to regulation by the public 816  
utilities commission from a list of at least three provided by the 817  
Ohio oil and gas association or a successor organization. 818

(5) The governor shall appoint one individual representing 819  
contract facility locators from a list of at least three such 820  
individuals provided to the governor by the organization 821  
representing their interests in this state. 822

(6) The governor shall appoint one individual from a list of 823  
at least three such individuals provided to the governor by the 824  
department of transportation in conjunction with the county 825  
engineers association of Ohio or a successor organization. 826

(7) The governor shall appoint one individual from a list of 827  
at least three provided by the organization representing the 828  
interests of municipal governments in this state. 829

(C) The representative from the public utilities commission 830  
shall serve as the chairperson for the initial year of the 831  
committee's existence. Thereafter, the committee members shall 832  
elect the committee chairperson. 833

(D) Committee members shall not be subject to the 834  
requirements set forth in section 102.02 of the Revised Code. 835  
Absent willful misconduct, committee members shall be immune from 836  
civil liability for any act or omission in the performance of 837  
their duties while serving on the committee. 838

(E) Each committee member shall receive reimbursement for 839  
actual and necessary expenses incurred in the performance of 840  
official business and for each mile necessarily traveled in the 841  
performance of official duties. 842

**Sec. 3781.34.** (A) The state underground protection advisory 843  
committee shall provide enforcement recommendations for sections 844  
3781.25 to 3781.32 of the Revised Code and recommend resolutions 845  
of complaints regarding discriminatory or unfair rates to the 846  
underground protection commission of Ohio pursuant to section 847  
3781.37 of the Revised Code. 848

(B) The underground protection advisory committee shall meet 849  
at least four times per year and any additional times as, in its 850  
judgment, are necessary. The committee may hold meetings at the 851  
location and time it selects. 852

(C) As appropriate, each protection service and the 853  
department of commerce shall provide the committee with meeting 854  
space, staff services, and other technical and administrative 855  
assistance within their respective areas of expertise. Such 856  
assistance may include providing the committee with data, 857  
research, statistics, and analysis and providing the committee 858  
with investigators and hearing examiners. 859

The protection services, in conjunction with the underground protection commission of Ohio, shall maintain any and all records on behalf of the committee and make them available to the public upon proper request.

(D) The committee may, as necessary, adopt rules to govern its procedures and shall adopt rules to govern the procedure by which each protection service shall forward the complaints it receives to the committee pursuant to section 3781.37 of the Revised Code.

(E) The committee may adopt an identifying mark, such as a seal, logo, or brand.

**Sec. 3781.35. (A)(1) There is hereby created within the department of commerce the underground protection commission of Ohio, consisting of three members appointed by the governor, with the advice and consent of the senate. Two members of the commission shall constitute a quorum. The governor shall make initial appointments to the commission within thirty days after the effective date of this section. Of the initial appointments, one shall be for a term ending January 31, 2011, one shall be for a term ending January 31, 2012, and one shall be for a term ending January 31, 2013. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds.**

(2) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed, provided that not more than two terms can be served consecutively and a period equal to one term must elapse after two consecutive terms before a member is eligible to serve another term.

(3) Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy

occurring prior to the expiration date of the term for which the 891  
member's predecessor was appointed shall hold office for the 892  
remainder of that term. A member shall continue in office 893  
subsequent to the expiration date of the member's term until a 894  
successor takes office or until a period of sixty days has 895  
elapsed, whichever occurs first. 896

(B) The governor shall appoint members of the commission in 897  
the following manner: 898

(1) One individual representing the office of the attorney 899  
general; 900

(2) One individual representing the department of commerce; 901

(3) One individual representing the interests of the public. 902

(C) The commission shall elect its chairperson at its first 903  
meeting to serve a one-year term. Thereafter, the commission 904  
members shall annually elect the commission chairperson. 905

(D) Commission members shall not be subject to the 906  
requirements set forth in section 102.02 of the Revised Code. 907  
Absent willful misconduct, commission members shall be immune from 908  
civil liability for any act or omission in the performance of 909  
their duties while serving on the commission. 910

(E) Each commission member shall receive reimbursement for 911  
actual and necessary expenses incurred in the performance of 912  
official business and for each mile necessarily traveled in the 913  
performance of official duties. 914

**Sec. 3781.36.** (A) The underground protection commission of 915  
Ohio shall meet at any time that, in its judgment, is necessary. 916  
The commission may hold meetings at the location and time that it 917  
selects. 918

(B) The commission shall do the following: 919

(1) Review and assess, and if necessary investigate, all 920  
enforcement recommendations submitted by the state underground 921  
protection advisory committee. If, pursuant to section 3781.37 of 922  
the Revised Code and with a majority vote of its members, the 923  
commission finds reasonable grounds indicating that a party 924  
against whom a complaint has been filed is a habitual or willful 925  
non-complier, it shall impose corrective action and appropriate 926  
penalties. 927

(2) Review, assess, and mediate resolutions of all complaints 928  
made to the committee regarding discriminatory or unfair rates or 929  
fees charged by a protection service. 930

(C) The commission may do any of the following: 931

(1) Request and receive from the department of commerce 932  
meeting space, staff services, and other technical assistance. 933  
Such assistance may include providing the commission with data, 934  
research, statistics, and analysis and providing the commission 935  
with investigators and hearing examiners. 936

The commission shall maintain any and all of its records and 937  
make them available to the public upon proper request. 938

(2) Adopt and utilize an identifying mark, such as a seal or 939  
logo, for the authentication of its documents. 940

(3) Adopt rules to govern its procedures. 941

**Sec. 3781.37. (A) A protection service shall forward all** 942  
**complaints it receives to the state underground protection** 943  
**advisory committee in accordance with rules adopted by the** 944  
**committee.** 945

(B) The committee shall investigate and conduct review 946  
hearings regarding the complaints filed with a protection service. 947  
If, after an investigation and review hearing, and with a majority 948  
vote of its members, it finds reasonable grounds indicating that a 949

party against whom a complaint has been filed is a habitual or 950  
willful non-complier, the committee shall provide its findings and 951  
recommend corrective action and civil penalties to the underground 952  
protection commission of Ohio, with such recommended civil 953  
penalties not to exceed ten thousand dollars per violation 954  
identified in the findings and recommendations. The commission 955  
shall review any recommendations submitted by the committee 956  
pursuant to this section, conduct a hearing in accordance with 957  
Chapter 119. of the Revised Code, and issue a ruling regarding 958  
each case. 959

(C) The committee shall investigate, review, and arbitrate 960  
resolutions of any complaints about discriminatory or unfair rates 961  
or fees charged by a protection service. Any party subject to 962  
arbitration under this section may appeal the committee's 963  
resolution of the complaint to the commission. 964

(D) In investigating complaints, the committee and commission 965  
may accept information from any person appearing to show a 966  
violation of any provision of sections 3781.25 to 3781.32 of the 967  
Revised Code. 968

In the course of conducting an investigation, the committee 969  
or commission may administer oaths, order the taking of 970  
depositions, and issue subpoenas to compel the attendance and 971  
testimony of persons and the production of books, accounts, 972  
papers, documents, or other tangibles. 973

If a person subpoenaed pursuant to this division fails to 974  
comply with the subpoena, the committee or commission may apply to 975  
the court of common pleas in the county in which the person to be 976  
subpoenaed resides for an order compelling compliance in the same 977  
manner as compliance with a subpoena issued by the court is 978  
compelled. 979

(E) Absent bad faith, any person reporting information or 980



testifying before the committee or the commission during any 981  
hearing arising under sections 3781.25 to 3781.32 of the Revised 982  
Code is not liable for any claims of civil damages that may arise 983  
from providing such report or testimony. 984

(F)(1) The commission may impose and collect penalties for 985  
violations of sections 3781.25 to 3781.32 of the Revised Code 986  
brought pursuant to complaints addressed under section 3781.37 of 987  
the Revised Code. Any penalty collected pursuant to this section 988  
shall be deposited in the state underground protection fund as 989  
provided in section 3781.38 of the Revised Code. 990

(2) No penalty imposed pursuant to this section shall exceed 991  
ten thousand dollars per violation. 992

(G) The committee and commission may dismiss a complaint only 993  
with a majority vote of its respective members. 994

(H) Commission decisions may be appealed to the Franklin 995  
county court of common pleas. 996

**Sec. 3781.38.** There is hereby created the state underground 997  
protection fund in the state treasury, which shall consist of 998  
moneys deposited into the fund pursuant to section 3781.281 of the 999  
Revised Code, from penalties imposed for violations of sections 1000  
3781.25 to 3781.32 of the Revised Code, and from any money 1001  
appropriated to it. 1002

The moneys in the fund shall be used at the discretion of the 1003  
underground protection commission consistent with this section. 1004  
The moneys shall first be used to pay the administration and 1005  
enforcement costs incurred pursuant to sections 3781.35 to 3781.37 1006  
of the Revised Code. Any moneys remaining in the fund shall be 1007  
used at the discretion of the commission for activities to improve 1008  
the state's underground utility facilities protection and to 1009  
provide grants to organizations to fund public education and 1010

<u>awareness programs promoting and advancing the mission and</u>	1011
<u>operations of the protection services.</u>	1012

<b>Section 2.</b> That existing sections 121.04, 153.64, 3781.25,	1013
3781.26, 3781.27, 3781.28, 3781.29, 3781.30, 3781.31, and 3781.32	1014
of the Revised Code are hereby repealed.	1015

**SECTION C - NON-FEDERAL RESOURCES**

(a) Grant Program		(b) Applicant	(c) State	(d) Other Sources	(e)TOTALS
8.	State Damage Prevention Program	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
9.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
10.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
11.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
12. TOTAL (sum of lines 8-11)		\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

**SECTION D - FORECASTED CASH NEEDS**

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
14. Non-Federal	\$ <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
15. TOTAL (sum of lines 13 and 14)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

**SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT**

(a) Grant Program		FUTURE FUNDING PERIODS (YEARS)			
		(b)First	(c) Second	(d) Third	(e) Fourth
16.	State Damage Prevention Program	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
17.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
18.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
19.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
20. TOTAL (sum of lines 16 - 19)		\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

**SECTION F - OTHER BUDGET INFORMATION**

21. Direct Charges: <input type="text"/>	22. Indirect Charges: <input type="text"/>
23. Remarks: <input type="text"/>	

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 Standard Form 424A (Rev. 7- 97)  
 Prescribed by OMB (Circular A -102) Page 2

## Application for Federal Assistance SF-424

Version 02

## \* 1. Type of Submission:

- ☐ Preapplication  
☒ Application  
☐ Changed/Corrected Application

## \* 2. Type of Application:

- ☒ New  
☐ Continuation  
☐ Revision

## \* If Revision, select appropriate letter(s):

## \* Other (Specify)

## \* 3. Date Received:

08/31/2009

## 4. Applicant Identifier:

## 5a. Federal Entity Identifier:

## \* 5b. Federal Award Identifier:

## State Use Only:

## 6. Date Received by State:

## 7. State Application Identifier:

## 8. APPLICANT INFORMATION:

## \* a. Legal Name:

PUBLIC UTILITIES COMMISSION OF OHIO

## \* b. Employer/Taxpayer Identification Number (EIN/TIN):

31-6402047

## \* c. Organizational DUNS:

046289216

## d. Address:

## \* Street1:

180 East Broad Street 7th Floor

## Street2:

## \* City:

Columbus

## County:

## \* State:

OH: Ohio

## Province:

## \* Country:

USA: UNITED STATES

## \* Zip / Postal Code:

43215-3793

## e. Organizational Unit:

## Department Name:

PUBLIC UTILITIES COMMISSION O

## Division Name:

Gas Pipeline Safety Section

## f. Name and contact information of person to be contacted on matters involving this application:

## Prefix:

Mr

## \* First Name:

Peter

## Middle Name:

## \* Last Name:

Chace

## Suffix:

NA

## Title:

Chief Gas Pipeline Safety

## Organizational Affiliation:

## \* Telephone Number:

6146448983

## Fax Number:

6147284319

## \* Email:

peter.chace@puc.state.oh.us

## Application for Federal Assistance SF-424

Version 02

## 9. Type of Applicant 1: Select Applicant Type:

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

## \* 10. Name of Federal Agency:

Pipeline &amp; Hazardous Material Safety Administration

## 11. Catalog of Federal Domestic Assistance Number:

20.720

CFDA Title:

Pipeline Safety

## \* 12. Funding Opportunity Number:

DTPH56-10-SN-0001

\* Title:

State Damage Prevention Grants

## 13. Competition Identification Number:

Title:

## 14. Areas Affected by Project (Cities, Counties, States, etc.):

## \* 15. Descriptive Title of Applicant's Project:

PUBLIC UTILITIES COMMISSION OF OHIO State Damage Prevention

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424**

Version 02

**\* Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

---

## CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### \* APPLICANT'S ORGANIZATION

PUBLIC UTILITIES COMMISSION OF OHIO

#### \* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: Mr. \* First Name: Peter Middle Name:   
\* Last Name: Chace Suffix: NA   
\* Title: Chief Gas Pipeline Safety

\* SIGNATURE: Tina Holbert

\* DATE: 08/31/2009



**TED STRICKLAND**  
GOVERNOR  
STATE OF OHIO

August 27, 2009

Mr. Warren Osterberg  
U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
ATTN: Office of Contracts and Procurement (PHA-30)  
1200 New Jersey Avenue, SE, Room E22-103  
Washington, DC 20590

Dear Mr. Osterberg:

The State of Ohio recognizes that reducing underground excavation damage requires an effective collaborative process. Accordingly, Ohio supports the efforts of the Pipeline and Hazardous Material Safety Administration's (PHMSA) excavation damage prevention grant initiatives and their support to states.

In 1989, Ohio established its One-Call Utility Protection Service to ensure that underground facilities are properly marked before any digging or excavation project begins. By this letter, I am designating the Public Utilities Commission of Ohio as the state authority eligible to receive a State Damage Prevention grant (solicitation number DTPH56-10-SN-0001) in calendar year 2010.

Damage prevention will continue to play a large role in protecting our underground infrastructure, preventing injuries, and keeping the citizens of Ohio safe.

Sincerely,

A handwritten signature in blue ink that reads "Ted Strickland". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Ted Strickland  
Governor, State of Ohio